

Apple Inc**Apple faces probe over whether it retaliated against whistleblower**

US labour department inquiry follows claims by ex-senior engineering program manager



The US Department of Labor will focus on whether Apple retaliated against a whistleblower who claimed there were poor working conditions at the company © Stephane Mahe/Reuters

Patrick McGee in San Francisco and **Patrick Temple-West** in New York DECEMBER 13 2021

The US Department of Labor is investigating Apple over claims that it retaliated against an employee who complained of workplace harassment and unsafe working conditions.

Ashley Gjovik, 35, had been a senior engineering program manager for six years at Apple when she was [fired in September](#) for allegedly leaking confidential information.

Gjovik, who has written regularly on Twitter about her allegations of harassment, surveillance and workplace safety issues, alleged that she was dismissed under a false pretext following numerous complaints that led to more than a dozen instances of retaliation including job reassignment.

The labour department declined to comment but confirmed its investigation in a letter to Gjovik seen by the Financial Times, dated December 10.

Stephen Kohn, an employment lawyer and an expert in US whistleblowing law, said the burden of proof needed for the agency to open an investigation was high, as the employee must have already established enough evidence that, unless rebutted, would prove the case.

He said the case would be closely watched because it was especially rare for a labour dispute with Big Tech “to break into the public” domain. The labour department rarely investigated such cases, he added. because of the widespread [use of non-disclosure agreements](#) to “silence and intimidate

whistleblowers”.

Apple declined to discuss specific employee matters, citing privacy, but said: “We are and have always been deeply committed to creating and maintaining a positive and inclusive workplace. We take all concerns seriously and we thoroughly investigate whenever a concern is raised.”

Mary Inman, head of the international whistleblower practice at the law firm Constantine Cannon, described the case as “a breath of fresh air” as Joe Biden’s administration signals a more aggressive stance to [hold companies to account](#).

Last month, the labour department’s top attorney announced an initiative to collaborate with other civil law enforcement agencies to protect workers from discrimination and misconduct.

For Apple, the investigation could mark the most significant setback in a series of labour disputes this year that included [a shareholder proposal](#) requesting more information about the company’s use of nondisclosure agreements. The proposal alleged the iPhone maker extended its culture of secrecy into workplace areas protected by state and federal laws.

Gjovik’s original complaints stemmed from mid-March, when she cited “chemical exposure” concerns at her Apple office in Sunnyvale, California. The facility is located on a Superfund site, requiring special oversight owing to previous contamination by hazardous waste materials beneath the building.

When Apple sent an email about wanting to test the site for “vapour intrusion”, Gjovik’s questions about it were rebuffed by Apple’s employee relations department. “They intimidated me not to speak about my safety concerns,” Gjovik alleged.

The labour department will examine whether Apple retaliated over claims about occupational safety and hazardous waste management liability, alongside a third allegation that falls under the Sarbanes-Oxley Act, or Sox, which sets out the rules for financial record keeping.

Gjovik pointed to a potential conflict of interest regarding Apple board member Ronald Sugar, chair of the audit committee, as he was previously chief executive of Northrop Grumman, the defence company responsible for the dump — and maintenance — of waste materials beneath the Sunnyvale office.

Sugar could not be immediately reached for comment.

Gjovik’s case was “especially unusual” and noteworthy because of the three separate statutes or laws that may have been broken, said Michael Duff, a former attorney at the National Relations Labor Board.

“Federal agencies exercise what in the context of criminal law is known as prosecutorial discretion,” he said. “They are very careful of what cases they move forward because they have

scarce resources, so they must have a strong reason to believe they can prevail.”

Other prominent investigations by the labour department included allegations that Google had a “systemic” problem [underpaying female employees](#). The case was resolved this year, with the search giant agreeing to pay \$3.8m.

Palantir, a data analytics company, [in 2017 paid](#) the labour department \$1.6m to settle allegations that it discriminated against Asian candidates in recruiting engineers.

Seth Goldstein, a pro-bono attorney who has been representing Amazon employees alleging unfair labour practices, said Gjovik’s actions were a reflection of her generation wanting companies to live up to the values they espoused. “It’s a sea change in the fact that people are standing up for what’s right,” he said.

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